

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PHILIP FRAZIER,	:	CIVIL ACTION NO. 1:07-CV-0194
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
SCI MEDICAL DISPENSARY	:	
DOCTOR + 2 STAFF MEMBERS, et al.	:	
	:	
Defendants	:	

ORDER

AND NOW, this 30th day of June, 2009, upon consideration of *pro se* plaintiff's petition (Doc. 76) for writ of mandamus and of the documents (Doc. 77) in support thereof, and it appearing that petitioner has addressed the motion to the "United States Court of Appeals [for the] Middle District of Pennsylvania," (Doc. 76 (emphasis added)), that plaintiff represents that "[a] writ of mandamus . . . constitutes a procedural mechanism through which a *court of appeals* reviews a carefully circumscribed and discrete category of district court orders," (*id.* ¶ 1 (emphasis added)), and that plaintiff requests issuance of a writ of mandamus as a means of obtaining appellate review of the order of court (Doc. 73) dated February 10, 2009, in which the magistrate judge denied plaintiff's motions to recuse (Docs. 69, 72), (see Doc. 76 ¶¶ 2-3), and it further appearing that a petition for writ of mandamus constitutes a proper means by which an appellate court may review a district court's denial of a motion to recuse, see In re Kensington Int'l Ltd., 353 F.3d 211, 219-20 (3d Cir. 2003); Alexander v. Primerica Holdings, Inc., 10 F.3d 155, 163 (3d

Cir. 1993), and the court concluding that plaintiff must file a petition for writ of mandamus with the Clerk of Court for the United States Court of Appeals for the Third Circuit in order to obtain mandamus review of an order of this court, see FED. R. APP. P. 21(a) (“A party petitioning for a writ of mandamus . . . must file a petition with the circuit clerk with proof of service on all parties to the proceeding in the trial court.”), it is hereby ORDERED that the motion (Doc. 76) for writ of mandamus is DENIED as moot without prejudice to plaintiff’s right to pursue mandamus relief before the United States Court of Appeals for the Third Circuit.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge